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UNCLAS SECTION 01 OF 02 VIENNA 001359

SIPDIS

STATE FOR EB/ESC/TFS, S/CT AND IO/PSC  
TREASURY FOR FTAT AND OFAC  
TREASURY ALSO FOR OCC/EILEEN SIEGEL, AND OASIA/ICB/VIMAL ATUKORALA  
TREASURY PLEASE PASS TO FINCEN  
JUSTICE FOR DOJ/CRM/ATMLS AND FOR OIA/RICHARD OWENS  
FBI FOR CID  
JUSTICE FOR CRM/AFMLS

E.O. 12958: N/A

TAGS: [KTFN](#) [EFIN](#) [PREL](#) [PTER](#) [AU](#)

SUBJECT: AUSTRIAN COURT ACTS TO UNFREEZE ABU NIDAL ASSETS

Summary

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¶1. In late August, a Vienna court ruled that the GOA should unfreeze about USD 8 million from a bank account belonging to the Palestinian Abu Nidal terrorist group. The public prosecutor has appealed the verdict and the case is now pending at the Supreme Court for a final judgment. The case illustrates the difficulty of satisfying the very high burden of proof set by Austrian courts in terrorism cases. END SUMMARY.

¶2. In late August 2008, a Vienna court ordered an end to the freezing of USD 8 million from a bank account belonging to the Palestinian Abu Nidal terrorist group. This is the preliminary end of eight-year-long court proceedings.

Background

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¶3. Abu Nidal (aka Sabri al Banna, the Palestinian terrorist who died in 2002) and his terrorist group are suspects in the murder of Vienna City Councilman Heinz Nittel in May 1981, the attack on the Vienna synagogue in August 1982 where two persons were killed, and the terrorist attack on the Vienna Airport in 1985 which killed three persons.

¶4. On January 13, 2000, Palestinian Halime Almughrabi (aka Nimer Halime) was arrested in Vienna for alleged money laundering when she tried to withdraw USD 2 million from an account with Bank Austria (which she had opened in 1982 under a different name) and transfer the funds to an Arab bank. The money had been transferred to the Bank Austria account from 1982-1987 and frozen since the 1990 Gulf war. Halime, born in Jordan, became a Libyan citizen by marriage, held passports from Libya and Jordan, and was married to Abu Nidal's finance chief, Samedir Najmeddin, who had the authority to sign on the account. Halime claimed that the money stems from her husband's, whose name she said was Mustafa Abu Najem, business. Abu Najem was also the name of Halime's son, who was arrested with her in Vienna in 2000, released, and left the country.

¶5. In March 2000, Halime was indicted for membership in a terrorist grouping and money laundering. In initial court proceedings, which started in April 2000, Halime claimed to be a housewife and to have inherited the money. She denied any relationship with the Abu Nidal group or Samedir Najmeddin even though the judge presented a proxy with her signature authorizing Samedir to dispose on the bank account. Soon after, the court proceedings were adjourned, and Halime was released on bail of EUR 36,000 and left Austria for Libya. In October 2000, Austria's Interior Minister confirmed that

Austria had received threats from the Abu Nidal group. In January 2001, court proceedings resumed, but Halime did not appear, reportedly because the Libyan authorities withheld her passport. Court proceedings were adjourned again. By November 2005 it was clear that Halime would not appear in Vienna, and the public prosecutor filed a motion for forfeiture of the money in the bank account.

¶16. The recent court ruling both denies the prosecutor's motion for forfeiture and orders the authorities to unfreeze the account. The judgment says it had not been proven that the money stems from terrorism or would flow to terrorists, and that it is unlikely the money will be used to finance terrorism, given Abu Nidal's death and his organizations' seeming collapse.

Anger, Dismay  
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¶17. The Austrian public prosecutor expressed surprise at the court's decision and immediately filed an appeal. The case is now pending at the Supreme Court for a final judgment. Angry reactions to the verdict came from the Austrian Justice Ministry and the Jewish community (including victims of the August 1981 synagogue attack). An unnamed senior official called the decision "naive and dangerous" and Federal Agency for State Protection and Counterterrorism (BVT) head Peter Gridling told media that Abu Nidal is active again in Lebanon and that the group had reportedly threatened Austrian authorities that it would "get the money in any case" -- peacefully or by force.

¶18. Post will continue to monitor developments.

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GIRARD-DICARLO